

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AKAMAI TECHNOLOGIES, INC. and
AKAMAI SECURITIES CORPORATION,

Plaintiffs,

v.

DEUTSCHE BANK AG,

Defendant.

Civil Action No. 1:10 CV 10254 - JLT

MOTION TO STAY PENDING ARBITRATION

Defendant Deutsche Bank AG (“Defendant”) hereby moves to stay this action for “control person” liability pending resolution in arbitration of the underlying claims of Plaintiffs Akamai Technologies, Inc. and Akamai Securities Corporation (collectively, “Plaintiffs” or “Akamai”) for primary liability against Defendant’s subsidiary Deutsche Bank Securities Inc. (“Deutsche Bank Securities”). As grounds therefor, Defendant states:

1. Akamai was a customer of Deutsche Bank Securities. As expressly conceded in the Complaint, Plaintiffs’ only claims in this action against Deutsche Bank AG, the ultimate corporate parent of Deutsche Bank Securities, are “control person” liability claims, which are dependent upon the alleged primary liability of Deutsche Bank Securities.

2. As Plaintiffs acknowledge in footnote 1 of the Complaint, their claims against Deutsche Bank Securities are subject to a binding arbitration agreement. Defendant believes that Plaintiffs will commence such an arbitration against Deutsche Bank Securities shortly. Accordingly, Defendant brings this motion to stay this action for vicarious liability pending the resolution of Akamai’s underlying claims for primary liability in the arbitration proceeding.

3. This Court has broad inherent power to stay this litigation pending the resolution of Plaintiffs' arbitration claims against the entity with which Plaintiffs did business, as other courts have done in similar circumstances.

4. Plaintiffs should not be permitted to circumvent the arbitration agreement by pursuing this action against the ultimate corporate parent in court at this time. The interests of this Court and the parties in efficiency, the risk of inconsistent rulings, and the policy favoring arbitration all warrant a stay pending the arbitration, which will have a direct impact on the claims that Plaintiffs assert in this action.

5. The grounds set forth here are more fully detailed in the accompanying Defendant Deutsche Bank AG's Memorandum of Law in Support of Motion to Stay Pending Arbitration.

WHEREFORE, Defendant Deutsche Bank AG prays that this Court stay this action pending the resolution of Plaintiffs' claims against Deutsche Bank Securities in arbitration.

RESPECTFULLY SUBMITTED:

DEUTSCHE BANK AG,
Defendant,

By its attorneys:

/s/ John A. Pappalardo
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LOCAL RULE 7.1(A)(2) CERTIFICATE

I, John A. Pappalardo, hereby certify that we conferred with counsel for Plaintiffs, who do not consent to this Motion.

/s/John A. Pappalardo

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent via U.S. first class mail to those indicated as non-registered participants on April 13, 2010.

/s/ John A. Pappalardo